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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,820	09/05/2006	Noriyuki Koyama	0717-0545PUS1	1441

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BIRCH STEWART KOLASCH & BIRCH  
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EXAMINER
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FAN, CHARLES C

ART UNIT	PAPER NUMBER
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2628

NOTIFICATION DATE	DELIVERY MODE
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07/02/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/556,820	<b>Applicant(s)</b> KOYAMA, NORIYUKI	
	<b>Examiner</b> CHARLES FAN	<b>Art Unit</b> 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/15/2005</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim does not expressly or implicitly require performance of any of the steps by a machine, such as a general-purpose computer. There are several tests that can be applied to determine whether claims are directed toward statutory subject matter. They include: (1) a process under 35 USC 101 requires a transformation of physical subject matter, tangible or intangible, to a different state or thing; (2) the “abstract idea” exception; and (3) the claim must recite a practical application, that is a useful, concrete, and tangible result. It is noted that claims that are broad enough to read on statutory and nonstatutory subject matter are considered nonstatutory. Claim 11 is directed to a computer program and do not require a transformation any physical subject matter, tangible or intangible, into a different state or thing. The claims are drawn simply to the computer software (i.e. software application), which is merely a set of instructions capable of being executed by a computer when the computer software is run on a computer for displaying a smear image taken with a scale factor. It is noted that claims to the computer program/software *per se* are not a process and without the computer-readable medium needed to realize the computer program/software’s functionally are nonstatutory functional descriptive material. See MPEP 2106 IV B 1(a). Specifically, a claim to computer program or a tangible computer-readable medium encoded with a computer program/software is statutory because it is a computer element, which defines structural and

functional interrelationships between the computer program and other component of a computer, which permits the computer program/software's functionality to be realized.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-4 and 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (Japanese Pub. 04-188190).

In re claims 1, 10-12, Miura et al. discloses a display device (Fig. 1, 3) for displaying a character or graphic; and a control section (Fig. 1, 2) for controlling the display device wherein the control section executes character/graphic display processing and the character/graphic display processing includes the steps of:

(a) scaling a character or graphic including reference points along a specific axis so as to generate scaled reference points (Page 2, second paragraph)

- (b) quantizing a sum of distances between the scaled reference points by a first method so as to generate a sum quantized by the first method (Page 2, last paragraph)
- (c) quantizing the distances between the scaled reference points by a second method so as to generate distances quantized by the second method (Page 3, lines 5-10)
- (d) adjusting at least one of the distances quantized by the first method such that a sum of the distances quantized by the first method equals the sum quantized by the second method (Page 3, lines 11-20)
- (e) displaying the scaled character or graphic based on the scaled reference points accompanying the at least one adjusted distance (Fig. 1, 3).

The adjusting of one method to another's distance in the prior art reference are reversed of those in the claimed invention, however, Examiner takes the position that it would have been obvious to reversing the adjustment of methods because it does not affect the ultimate result of the system and therefore the reversing of adjusting of methods is an alternative way such adjustment.

In re claim 2, Miura et al. discloses wherein the quantization by the second method is performed in consideration of a distance flag representing a minimum necessary distance as a distance (Page. 12, third paragraph)

In re claim 3, Miura et al. discloses wherein step (d) is performed in consideration of a distance flag representing a minimum necessary distance as a distance quantized by the second method (Page. 12, third paragraph).

In re claim 4, Miura et al. discloses (d) includes the step of extending at least one of the distances quantized by the second method (page 14, last paragraph).

In re claim 6, Miura et al. discloses wherein step (d) includes the step of making at least one of the distances quantized by the second method zero (Page 14, first paragraph).

In re claim 7, Miura et al. discloses step (e) includes the step of displaying a first point which is a prescribed point on the scaled character, such that a value of distance a/distance b is closest to a value of distance A/distance B, where: a second point which corresponds to the first point and is on the pre-scaling character is between a first reference point and a second reference point adjacent to each other, among the pre-scaling reference points; distance A is a distance between the second point and the first reference point; distance B is a distance between the second point and the second reference point; distance a is between the first point and the scaled first reference point; and distance b is between the first point and the scaled second reference point (Page 17, the formula in the page).

In re claim 8, Miura et al. discloses the character is formed of a plurality of blocks; and the character/graphic display processing further 5 includes the step of executing steps (b) through (d) for each of the plurality of blocks (Page 11, last paragraph).

In re claim 9, Miura et al. discloses wherein the step of making at least one of the distances quantized by the second method zero is performed in consideration of a flag which represents a position of a distance to be made zero in the order by which the at least one of the distances is made zero (Page 14, first paragraph).

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (Japanese Pub. 04-188190) in further view of Ogawa (Japanese Pub. 07-036434).

In re claim 5, it is noted that the Miura et al. doesn't explicitly disclose shortening the distance. However, Naomi discloses shortening the distance [0012]. It would have been obvious to one of ordinary skill to combine the character drawing of Miura et al. with the shortening of Ogawa with the motivation of shortening if the integerization rounded up instead of down.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Motokado et al. (US Pat. No. 5,526,476) discloses a character generator using a coordinate system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES FAN whose telephone number is (571)270-3550. The examiner can normally be reached on mon- fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xiao Wu can be reached on (571)272-7761. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Supervisory Patent Examiner, Art Unit 2628